

PUBLIC CHAPTER NO. 1085

HOUSE BILL NO. 3249

By Representatives Coley, Lollar, Hardaway, McManus

Substituted for: Senate Bill No. 2930

By Senator Stanley

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 51, Part 11, relative to adult oriented establishments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 7-51-1102(25), is amended by adding the following words after "Tennessee Code Annotated:"

"or the corresponding violation of another state or country:"

SECTION 2. Tennessee Code Annotated, Section 7-51-1109, is amended by designating subsections (c), (d), (e) and (f) of the present law as subsection (c)(1), (2), (3) and (4) accordingly and by adding the following language to be designated as subdivision (5):

(5) This subsection (c) shall apply in any county that, pursuant to § 7-51-1120, adopts this part as being applicable in its county, unless the county legislative body of such county elects to have subsection (d) apply.

SECTION 3. Tennessee Code Annotated, Section 7-51-1109, is further amended by adding the following language as a new subsection (d):

(d)

(1) In any county in which the legislative body, in accordance with subdivision (d)(3), elects to make this subsection (d) applicable in its county, if the board affirms the suspension, revocation, or annulment of the license or permit of the holder, the license or permit holder may appeal the decision to a court of record in such county, within ten (10) days of any such affirmation, by common-law writ of certiorari. Such appellant shall have the burden of showing to the court that the revocation, suspension, or annulment is illegal, arbitrary, or capricious. If a court finds the board decision is clearly erroneous, the court may overturn the decision as being illegal, arbitrary, or capricious.

(2) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation.

(3) The legislative body of any county that, pursuant to § 7-51-1120, adopts this part as being applicable in its county, shall also have the option of electing to make this subsection (d) applicable in its county. Any action by such county may be rescinded by the legislative body, in which case subsection (c) shall apply.

SECTION 4. Tennessee Code Annotated, Section 7-51-1110, is amended by designating subsections (c), (d), (e) and (f) as subsection (c)(1), (2), (3) and (4) accordingly and by adding the following language to be designated as subdivision (5):

(5) This subsection (c) shall apply in any county that, pursuant to § 7-51-1120, adopts to make this part applicable in its county, unless the county legislative body of such county elects to have subsection (d) apply.

SECTION 5. Tennessee Code Annotated, Section 7-51-1110, is amended by adding the following language to be designated as subsection (d):

(d)

(1) In any county in which the legislative body, in accordance with subdivision (d)(2), elects to make this subsection (d) applicable in its county, if the board affirms the denial of an application, the applicant may appeal the decision to a court of record in such county, within ten (10) days of any such affirmation, by common-law writ of certiorari. The applicant shall have the burden of showing to the court that the denial is illegal, arbitrary, or capricious. If a court finds the board decision is clearly erroneous, the court may overturn the decision as being illegal, arbitrary, or capricious.

(2) The legislative body of any county that, pursuant to § 7-51-1120, adopts this part as being applicable in its county, shall also have the option of electing to make this subsection (d) applicable in its county. Any action by such county may be rescinded by the legislative body in which case subsection (c) shall apply.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. This act shall take effect July 1, 2008, the public welfare requiring it.

PASSED: May 15, 2008


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY, SPEAKER
SENATE OF THE SENATE

APPROVED this 3rd day of June 2008


PHIL BREDESEN, GOVERNOR